

AG Contract No. KR01 0273TRN  
ADOT ECS File No. JPA 01-31  
Project: TEA-SSC-0( )P  
TRACS No. SL435 01D/01C  
Section: Tubac Pedestrian Pathway & Plaza  
Sidewalk and Landscaping

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
SANTA CRUZ COUNTY, ARIZONA

THIS AGREEMENT is entered into 18 APRIL, 2001, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and SANTA CRUZ COUNTY, acting by and through its BOARD OF DIRECTORS (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes Section 11-251 and 11-931 et seq to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the County.

3. Congress has authorized appropriations for, but not limited to, transportation enhancements including roadside attractions of historic preservation.

4. Such project within the boundary of the County has been selected by the County; the survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

NO 24561  
Filed with the Secretary of State  
Date Filed: 04/18/01

Betsy Boyles  
Secretary of State

B. Vicky V. Gruenewald

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the County by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The County, in order to obtain federal funds for the construction of the project, is willing to provide County funds to match federal funds in the ratio required or as finally fixed and determined by the County and FHWA.

7. The work embraced in this agreement, and the estimated costs are as follows: Design and construct Tubac pedestrian Pathway & Plaza, sidewalk and landscaping.

**Design TRACS No. SL430 01D**

Estimated Design Cost	\$ 21,500.00
Federal Aid Funds @ 94.3%	\$ 20,275.00
Santa Cruz County Funds @ 5.7%	\$ 1,226.00

**Construction TRACS No. SL430 01C**

Estimated Construction Cost (incl. 15% CE cost)	\$219,500.00
Federal Aid Funds @ 94.3%	\$206,989.00
Santa Cruz County Funds @ 5.7%	\$ 12,512.00
Total Santa Cruz County Funds for Design and Construction	\$ 13,738.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

**II. SCOPE OF WORK**

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of the County and the FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the State, enter into a contract(s) with a firm(s) to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of applicable standards and guidelines. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the County shall be obligated to incur any expenditure in excess. Such changes require the prior approval of the County.

2. Prior to the solicitation of bids, the County shall set aside sufficient funds in the amount determined to be necessary to match federal funds in the ratio required.

3. Upon completion of construction, the County shall ensure appropriate and proper maintenance of the structure, unless assumed by another entity.

4. The County shall allow public access to the structure and grounds during normal business hours, including, but not limited to, tours and announced public meetings.

5. The State will complete the project in accordance with approved plans and specifications and the requirements of the relevant State and federal statutes, rules, or regulations.

### III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The County assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the County and that the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the construction and construction engineering work covered by this agreement is to be borne by FHWA and County, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, County agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual, unless assumed by another entity.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 pertaining to State audit are applicable to this contract. In the event of such an audit the County will bear all costs associated therewith.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

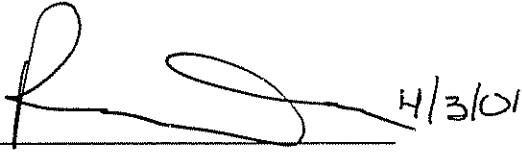
Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue - 616E  
Phoenix, AZ 85007

Santa Cruz County  
Public Works Director  
2150 N. Congress Drive #117  
Nogales, AZ 85621

9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**SANTA CRUZ COUNTY, ARIZONA**

By  4/3/01  
Chairman

**STATE OF ARIZONA**

Department of Transportation

By   
CATHERINE J. HEGEL  
Contract Administrator

ATTEST:

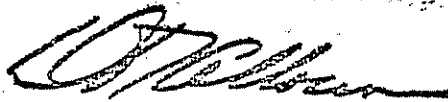
By   
MELINDA MEEK  
Clerk of the Board

27feb

RESOLUTION

BE IT RESOLVED on this 22nd day of February 2001, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with Santa Cruz County for the purpose of defining responsibilities for the constructing improvements to the Tubac Pedestrian Pathway and Plaza Sidewalk and Landscaping.B-40 @ Grandview.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', is written over a horizontal line.

DAVID R. ALLOCCO, P.E.  
Assistant State Engineer  
Engineering Technical Group  
for Mary E. Peters, Director



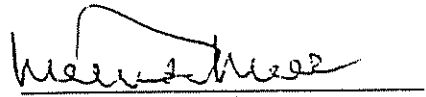
BOARD OF SUPERVISORS  
SANTA CRUZ COUNTY

MANUEL RUIZ  
District 1  
ROBERT DAMON  
District 2  
JOHN MAYNARD  
District 3

I, Melinda Meek, the duly appointed Clerk of the Board of Supervisors of Santa Cruz County, State of Arizona, do hereby certify that the following is a true and exact replica of a portion of the official minutes of the Board of Supervisors meeting held on April 3<sup>rd</sup>, 2001:

TUBAC PEDESTRIAN PATHWAY PROJECT: Supervisor Maynard made a motion to approve the Intergovernmental Agreement with the Arizona Department of Transportation for the Tubac Pedestrian Pathway Project as proposed by Staff; second by Vice-Chairman Ruiz; motion carried unanimously.

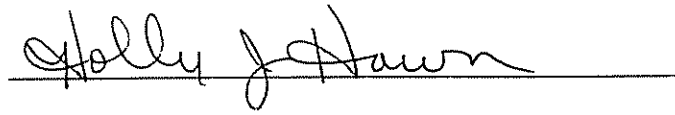
Dated this 5<sup>th</sup> day of April, 2001.

  
Melinda Meek  
Clerk of the Board  
Santa Cruz County, AZ

APPROVAL OF THE SANTA CRUZ COUNTY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and SANTA CRUZ COUNTY and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

DATED this 3 day of April, 2001.



County Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ. 85007-2926

JANET NAPOLITANO  
ATTORNEY GENERAL

TRN Main: (602) 542-1680

Direct: (602) 542-8855

Fax: (602) 542-3646

MAIN PHONE: (602) 542-5025

FACSIMILE: (602) 542-4085

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR01-0273TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED April 12, 2001.

JANET NAPOLITANO  
Attorney General

SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:ggt

Enc.

678318